

**REMARKS**

**Status of the Claims**

*Pending Claims*

Claims 1, 27, 33, 40, 45, 48, 57, 60, 98, 100, 106, 116, 126, 131, 141, 173-175, 180, 185, 190, 196, 198, 202, 204-206, 212-214 and 218-222 are pending. Claims 1, 27, 33, 40, 45, 48, 57, 100, 106, 116, 126, 131, 141, 173, 174, 205, 206 and 214 are withdrawn. Therefore claims 60, 98, 175, 180, 185, 190, 196, 198, 202, 204, 212, 213 and 218-222 are pending and under examination.

*Claims added in the instant amendment*

Claims 223-229 are added.

*Claims canceled in the instant amendment*

Claim 222 is canceled without prejudice or disclaimer.

Accordingly, after entry of the instant amendment, claims 60, 98, 175, 180, 185, 190, 196, 198, 202, 204, 212, 213, 218-221 and 223-229 will be pending and under consideration.

**Outstanding Rejections**

Claim 222 is rejected under 35 U.S.C. §101. Claims 60, 98, 175, 180, 185, 190, 196, 198, 202, 204, 212, 213, and 218-222 are rejected under 35 U.S.C. §112- Second paragraph. Claims 60, 98, 175, 180, 185, 190, 196, 198, 202, 204, 212, 213, and 218-222 are rejected under 35 U.S.C. §112- First paragraph. Claims 60, 98, 175, 180, 212, 213, 219 and 220 are rejected under 35 U.S.C. §102(b). Claims 185, 190, 196, 198, 202, 204, 208, 221, and 222 are rejected under 35 U.S.C. §103(a).

**Support for the Claim Amendments**

The specification sets forth an extensive description of the invention in the amended claims. Accordingly, Applicants respectfully submit that no new matter is introduced by the instant amendment.

Objection to the Abstract

The abstract is objected to because it appeared to the Examiner to be too long. Applicants respectfully traverse this objection.

As the Examiner notes, MPEP 608.01(b) states that the abstract should be within the range of 50 to 150 words. Applicants respectfully submit that the abstract for the present application, as filed, is 142 words in length. Therefore, the abstract is within the range prescribed by MPEP 608.01(b). Applicants respectfully request that the Examiner withdraw the objection to the Abstract.

Objection to the Specification

The specification is objected to because Table 2 and 3 are improperly formatted, with Table 3 having Table 2 inserted in the middle.

Applicants respectfully submit that the amendments to the specification provided on page 2 of this paper address the Examiner's concerns. Therefore the objection to the specification may be properly withdrawn.

Objections to the Claims

Claims 60, 98, 175, 180, 185, 190, 196, 198, 202, 204, 212, 213, 218-222 are objected to for reasons set forth in detail on pages 3-4 of the OA. The instant amendment addresses these issues. Therefore, Applicants respectfully submit that the objections to the claims may be properly withdrawn.

Claim Rejections - 35 U.S.C. § 101

Claim 222 is rejected to under 35 U.S.C. 101 because the claimed recitation of use, without setting forth any steps involved in the process, allegedly results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101.

Claim 222 has been canceled in the instant, without prejudice or disclaimer.

Claim Rejections - 35 U.S.C. § 112 – Second Paragraph

Claims 60, 98, 175, 180, 185, 190, 196, 198, 202, 204, 212, 213 and 218-222 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, for reasons set forth in detail on pages 4-7 of the OA.

The instant amendment addresses these issues. Therefore, the Applicant respectfully submits that the rejections under 35 U.S.C. 112 – Second Paragraph may be properly withdrawn.

Claim Rejections - 35 U.S.C. § 112 – First Paragraph**Enablement and Written Description**

Claims 60, 98, 175, 180, 185, 190, 196, 198, 202, 204, 212, 213, 218-222 are rejected under 35 U.S.C. 112, first paragraph, for reasons set forth in detail on pages 7-11 of the OA.

The instant amendment addresses this issue. Specifically, the claims have been narrowed in scope to encompass polypeptides having at least 90% identity over the full length of SEQ ID NO:42 and also having protease activity. Therefore, the rejection of the claims under 35 U.S.C. 112 – first paragraph, may be properly withdrawn.

Claim Rejections - 35 U.S.C. § 102

Claims 60, 98, 175, 180, 212, 213, 219 and 220 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Matsuzawa *et al.*, 1988, for reasons set forth on page 11 of the OA. The instant amendment addresses this issue.

The legal standard for anticipation under 35 U.S.C. §102 is one of strict identity. To anticipate a claim, a single prior source must contain each and every limitation of the claimed invention. In re Paulson, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994)(citing In re Spada, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990)). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP §2131;, 8th ed., Rev. 6, September 2007.

Applicants respectfully submit that after entry of the instant amendment, the present claims will be directed to polypeptides with at least 90% identity to SEQ ID NO:42 and having a protease activity. Matsuzawa *et al.* does not teach a nucleic acid that exhibits at least 90% sequence identity to SEQ ID NO:42. Thus, because Matsuzawa *et al.* is not a single prior source which contains each and every limitation of the claimed invention, the rejection under section 102 may be properly withdrawn.

Claim Rejections - 35 U.S.C. § 103

Claims 185, 190, 196, 198, 202, 204, 208, 221 and 222 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuzawa *et al.*, 1988 in view of Chen *et al.*, 1987, Rowan *et al.*, 1990, Outtrup *et al.*, 1995, or Baech *et al.*, 1994, for reasons set forth in detail on pages 11-13 of the OA.

The Office notes that Matsuzawa *et al.* is defective in that it does not teach their protease within a food product, a dairy product, paper pulp, a pharmaceutical composition, an oral care solution, a contact lens solution, a medical dressing, or a pharmaceutical composition for treating wounds, and cited Chen *et al.*, Rowan *et al.*, Outtrup *et al.*, and Baech *et al.* to cure the defect.

However, as discussed above, after entry of the instant amendment, Matsuzawa *et al.* is further defective in that it does not teach the claimed polypeptides, and Chen *et al.*, Rowan *et al.*, Outtrup *et al.*, and Baech *et al.* do not cure that defect. Accordingly, because the cited references do not teach the claimed nucleic acid sequences of this invention (as amended), the section 103(a) rejection can be properly withdrawn.

**CONCLUSION**

In view of the foregoing amendment and remarks, Applicants respectfully submit that the Examiner can properly withdraw the rejection of pending claims under 35 U.S.C. § 101, 35 U.S.C. § 102, 35 U.S.C. § 103, 35 U.S.C. § 112, first paragraph, and 35 U.S.C. § 112, second paragraph. In view of the above, claims in this application after entry of the instant amendment are believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue.

In the unlikely event that the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees in connection with the filing of this document to Deposit Account No. 50-0661 referencing docket no. D1160N. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (858)526-0376.

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Respectfully submitted,

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